

IN The United States District Court
Middle District of Alabama

RECEIVED

BILLY GAY AII'S

V

Gwendolyn Mosley

2006 APR -4 A 9:32

3:05-CV-12280
FEDERAL DISTRICT COURT
MIDDLE DISTRICT ALA

Petitioner Reply to Respondants
ANSWER to MAGISTRATES ORDER

INTO this court comes Billy AII'S(AII'S) by and through himself,
And does now submit his Reply to the ANSWER by Yvonne
SAXON(SAXON) Attorney for the Respondants-

AII'S AGREES with SAXON Statement of two SEPERATE INDICTMENT⁽¹⁾
FOR MURDER AND FIRST DEGREE THEFT" GRAND JURYS
NO. 67 + 68 CC-90-008 AND⁽²⁾ CAPITAL MURDER, GRAND JURY
NO 66 CC-90-007. SAXON, Exhibit(A) this Exhibit have been
ALTERED AS the Exhibits (1) AII'S is including herein.

AII'S did AGREE to A PLEA AGREEMENT said AGREEMENT WAS
NEVER TO THE COURT AT the PLEA hearing said AGREEMENT
WAS A PLEA OF GUILTY TO MURDER CC-90-008 FOR A PRISON
SENTENCE OF TWENTY (20) YEARS WITH A GUARANTEED
PAROLE AFTER SERVING EIGHT (8) YEAR IN PRISON AND ALSO
AGREEING NOT TO APPEAL see

EX-PARTE YARBER U37 SO 2d 1330⁷⁷ ALSO CLARK V ST
318 SO 2d 805; U6 Led 2d 270 PLUS sides & ST
575 SO 2d 1232⁷⁷ AND BLAND V ST 565 SO 2d 1240
BREWSTER V ST 624 SO 2d 217 EX-PARTE PARDOUE 797
AIIIS WAS INSTEAD Plead Guilty by his ATTORNEY Thomas Jones
(Jones) To the Indictment #66 CC-90-007 Capital murder
And Also to the Unindicted charge of Robbery 1st
AIIIS was Plead guilty to CC-90-007 Allegedly to be A Plead
to the Lesser Charge OR CC-90-008 Which ACCORDING TO
SAXON Exhibit(A) The sentencing order. CC-90-008
GRAND JURY 67-68 MURDER AND THEFT 1ST were Nolle PROssed.
CLEARLY it is IMPOSSIBLE to Ad Judge ~~AN~~ guilty of A
CRIME AND in the SAME ORDER Nolle PROss THE SAME
CHARGE this would RENDER the FINDING OF guilty AND
SENTENCE VOID. AIIIS has CLEARLY ESTABLISHED FEDERAL AND
CONSTITUTIONAL RIGHT OF DUE PROCESS AND A FAIR TRIAL
see Bonego V US 975 F supp. 520; TRIESTMAN 124
1st 3d 378 (N.21);⁷ SCHLUPI 513 US 324-115 SCT 866.

AIIIS would REPLY to SAXON CLAIM that he did NOT try to
CHALLENGE his CONVICTION FOR 14 year AS NOT true
CLAIM EVEN THE ALTERED RECORDS SAXON did submit
CASE ACTION SUMMARY of CC-90-007 & 008 will show AIIIS
begin his CHALLENGE in APRIL 1998 AFTER the EIGHT (8)
YEAR in PRISON Jones told him to SERVE.

CLEARLY SAXON ALLEGATION THAT AIIIS PETITION FOR A REDUCTION IN SENTENCE IS UNTIMELY DOES KNOW OR SHOULD KNOW THAT A RULE 32 PETITION THAT RAISE A JURISDICTIONAL ISSUE IS NOT TIME BARRED BY ANY SUCH LIMITATION SEE RULE 32.1 (A-C) 32.2(C) ALSO NELSON V STATE WL 316 28768 (AIA APR 2002) WL 212 05837 (AIA 2003) AND EX PARTE PARDOUE 797 SO 2D ALSO SEE RULES CRIMINAL PRO. 26.12(C) TAYLOR V STATE 8016 SO 2D 1111 (AIA APP. 2002) AND MOORE V STATE 814 SO 2D 308 ALSO SEE EXHIBIT #1.

AIIIS STILL HAS A RULE 32 PETITION PENDING IN THE CIRCUIT COURT OF RANDOLPH COUNTY SINCE 4-11-05 CLEARLY THE VERY FACT THAT THE PROSECUTOR IS IN GROSS DEFAULT PURSUANT TO THE LAWS RULE 32.7(A) AIA CRIM PRO. THE FAILURE OF THE STATE TO DISPUTE DENY OR ARGUE THE CLAIMS RAISED BY AIIIS WOULD MEAN THAT THE TRIAL COURT MUST EXCEPT THESE ISSUES CLAIMS AS TRUE AND FACTUAL AND THERE BY GRANT THE RELIEF SOUGHT BY AIIIS SEE COOPER V PATE 378 US 546, 12 Led 2d 1030 84 Sct 1733, PLUS CRAMER V SKINNER 931 F 2d 1020 CLEARLY SAXON EXHIBIT A-(ALTERED) AND THE FACT IN THIS INSTANT CAUSE ALL POINT TO THE COURT IS NOW DUE TO GRANT THIS WRIT OR IN THE VERY LEAST ALTERNATIVE HOLD AN EVIDENTIARY HEARING.

clearly 28 USC § 2244(d)(1) does not apply in this instant cause due to the fact that AHS did completely with the clearly erroneous false information he received from Jones, and was delayed by not knowing the law nor how to file proper attack on his conviction by the state refusal to release the case record.

AHS would ask Saxon how she can deny all of the claims AHS raised with out any knowledge of the fact in this case? Would Saxon explain how she can make a statement on (P.5) and then argue in a completely opposite direction on (P.4) of the same written document and then enter still further on P5 a frivolous claims of an alleged statute of limitation imposed by the state that she know is a false claim see EX-PARTE PARDE 797 SO 2d — plus SALTER V STATE 606 SO 2d 209 Rule 32-1 (A) (E) (F).

STATEMENT OF THE CASE

This case began when the Grand Jury of Randolph County issued two separate indictment against Petitioner Alis & GJ# 66, CC-90-007 plus also GJ# 67-68 CC-90-008 said indictment were (1st) Capital murder # 66 and (2nd) murder (count 1#) Theft 1st (Count 2#)

Alis was arrested on Feb. 7, 1990 and placed in the county jail. On March 1, 1990 Attorney Tom Jones appointed as counsel for the defense. An arraignment was had and a plea of not guilty entered. The records will also show that on 4-4-90 Attorney Don Cleveland was appointed as co-counsel.

The record will also show that neither defense attorney filed any type of discovery motion to obtain factual evidence that linked their client Alis to this alleged killing of Louis Kelly. Absolutely no showing of any investigation of this case by either Jones or Cleveland.

This case appears to be a clear showing by the defense counsels of a set up to assist District Attorney Milford get a verdict of guilty by and through the plea of guilty which was had by the constant verbal threat of a death sentence by Attorney Tom Jones an agreement (promise)

WAS instigated by Jones That IF AIIIS Plead Guilty he would Receive A Sentence of 20 Year With the PROMISE OF PAROLE AFTER (8) eight year.

This AGREEMENT WAS not PRESENTED TO THE COURT by Jones At The Plea hearing ALSO AIIIS WAS AGAIN THREATENED with the Death PENALTY if he APPEALED this conviction And Sentence See the sentencing ORDER by Judge DALE SEGREST. The Records will Show that AIIIS not being AN ATTORNEY And having NO Education in MATTERS OF LAW did AIIIS ADVISED by ATTORNEY Jones WAITED (8) eight year when he did not make PAROLE AS PROMISED he did begin to ATTACK HIS CASE on the 13 DAY OF APRIL 1998.

AIIIS has been ATTEMPTING to obtain THE COMPLETE RECORD OF THIS CASE SINCE 4-13-98 TO NO AVAIL.

The RECORD WILL SHOW THE FOLLOWING VITAL AND VALID FACTUAL Evidence

A There is ABSOLUTELY NO PHYSICAL NOR MEDICAL evidence TO LINK AIIIS TO THIS MURDER. NO GUN, NO FINGER PRINTS, NO TIRE PRINT, no witness to place AIIIS AT the PLACE AND TIME OF SHOT MURDER. The ONLY LINK BETWEEN AIIIS AND the victim is

The victim's Adulterous wife Patsy who did have an intimate encounter with Alls about (6) six months prior to the victim's being murdered. Alls had witness who sworn statement gave him a solid alibi for the time of the murder. The Randolph County Sheriff office nor the ~~District Attorney~~ office ever found any evidence to link Alls to the crime other than Alls an African American man had a consensual sexual encounter with ms Patsy Kelly the victim's wife about 6 months prior to his murder. This is what the ~~Investigator~~ prosecution and the court used to find Alls guilty and to sentence him to two life terms.

The record will also show that Alls plead guilty to Indictment #66 (10) Capital murder and also that the court did then allow the state to nolle-prossed and dismissed this would be Indictment 67 + 68 CC-90-008. The charge of murder and theft 1st therefore Alls was then adjudged guilty and sentenced to the charge of murder that had just been dismissed by the very same court. How is this possible?

STATEMENT OF FACT

PETITIONER ALLS PRESENTS THESE VITAL FACT

- A) ALLS WAS NEVER INDICTED FOR THE ALLEGED CHARGE OF ROBBERY 1ST HE ALLEGEDLY PLEAD GUILTY TO.
- B) ALLS ENTERED A PLEA OF GUILTY TO CC-90-007 G.J. "66" CAPITAL MURDER.
- C) THE ALLEGED PLEA AGREEMENT WAS NOT PRESENTED TO JUDGE SEGREST.
- D) THE PLEA AGREEMENT WAS "ALLS WOULD ENTER A PLEA OF GUILTY TO THE CHARGE OF MURDER AND RECEIVE A SENTENCE OF 20 YEARS AND A GUARANTEED PAROLE AFTER (8) EIGHT YEAR". THE CAPITAL MURDER AND THE THEFT CHARGES WERE TO BE VOLUNTARILY PROSED AND DISMISSED!
- E) ALLS DID NOT APPEAL HIS CONVICTION NOR DID HE ATTEMPT TO ATTACK HIS SENTENCE UNTIL HE HAD SERVED THE (8) EIGHT YEAR HIS ATTORNEY JONES PROMISED HE WOULD BE PAROLED AT THAT TIME. ALSO JUDGE SEGREST DID THREATEN ALLS THAT ANY ATTACK ON HIS CONVICTION COULD BRING BACK THE POSSIBLE SENTENCE TO DEATH.

F) Alls began attacking his conviction and two life sentence on the 13 day of April 1998 as the records will show.

G) Alls did file a Rule 32 Post-conviction Relief Petition on 4-11-05 to withdraw his guilty plea, pursuant to Nelson v State 2003 WL 21205837 (AIA 2003), and Brown v State 495 So 2d 729; Ex parte Pardue 797 So 2d 409 (AIA SUP 2000) Respondants Exhibit -B-¹

H) This Rule 32 petition is still pending due to the Circuit Court of Randolph County ignoring it no response by the prosecutor as required by law. Rule 32.7(A) Glass v State 627 So 2d 1096 plus Coleman v State 722 So 2d 802² and Gay v State 624 So 2d 1389

I) The records (silent) will show that Randolph County Circuit Courts refusal to address the post-conviction petition now pending and the failure to submit copies of the plea hearing and case records upon the attorney for the respondent would tend to show a possibility of denial of due process right of petitioner as well as the very rules governing HABENS CORPUS PROCEDURES
28 USC §§ 2241 thru 2254

J) The valid fact that the copy of the case action summaries of CC-90-007 and CC-90-008 presented by respondent were altered by some one does show that respondent will go to any length to deny Alls Justice in this instant cause.

Conclusion

Alls Avers that each and every statement And CLAIM is true
And factual AS the Complete Record of this case will Show
And, Alls would CHALLENGE SAXON And this Court to now
Review the complete Record to PROVE him WRONG by the
FACT not by Some tenicallity in the very interest of
Justice . All CLAIM ARE made under PENALTY of PERJURY.

Respectfully submitted
Billy Alls
Billy Alls

Certificate of Service

A true copy of the Afore going has been served upon
YVONNE A.H. SAXON A.R.G. by Placing same in the Legal
mail system at E.C.F. done this 1 day of APRIL
2006

Including Exhibits

Billy Alls
Billy Alls